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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,809	12/30/2004	Igor Miskovic	9342-14	7327
54414	7590	06/07/2006		EXAMINER
MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627				PIGGUSH, AARON C
			ART UNIT	PAPER NUMBER
			2838	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

3X

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/519,809	MISKOVIC ET AL.
	<b>Examiner</b>	Art Unit
	Aaron Piggush	2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 March 2006.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 30 December 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mundt (US 5,903,254).

With respect to claim 1, Mundt discloses a battery-driven electronic device, comprising:

means for detecting power consumption that is configured to establish present power consumption during operation of the device (col 8 ln 9-20, Fig. 5A-D, and col 6 ln 56-61);

means for presenting data based on the established current power consumption (Fig. 5A-D and col 7 ln 25-31);

means for calculating a level indicating parameter value representing the established current power consumption as a consumption level in a predetermined scale (col 8 ln 9-20 and Fig. 5A-D); and

wherein said presented data comprises an indication of said consumption level in said scale (col 7 ln 25-60).

With respect to claim 2, Mundt discloses the battery-driven device as recited in claim 1, wherein said presented data comprises said level indicating parameter value and a preset value of said scale (col 7 ln 25-60, Fig. 5A-D, and col 7 ln 1-25).

With respect to claim 3, Mundt discloses the battery-driven device as recited in claim 1, further comprising:

means for calculating remaining battery time based on the established current power consumption (col 6 ln 28-55 and Fig. 4).

With respect to claim 4, Mundt discloses the battery-driven device as recited in claim 3, wherein said presented data comprises an indication of the calculated remaining battery time based on a current mode of the device (col 6 ln 28-55, Fig. 4, and col 8 ln 9-20).

With respect to claim 5, Mundt discloses the battery-driven device as recited in claim 1, wherein said means for presenting data comprises a display (Fig. 4 and 5A-D and I in Fig. 1).

With respect to claim 7, Mundt discloses a computer program product for a battery-driven device comprising:

a computer readable storage medium having computer readable program code embodied therein (col 6 ln 65-67, col 8 ln 9-10, and col 2 ln 24-32), the computer readable program code comprising:

computer readable program code configured to detect present power consumption during operation of the device (col 8 ln 9-20, Fig. 5A-D, and col 6 ln 56-61);

computer readable program code configured to calculate a level indicating parameter value representing the detected present power consumption as a consumption level in a predetermined scale (col 8 ln 9-20 and Fig. 5A-D); and

computer readable program code configured to present an indication of said consumption level in said scale (Fig. 5A-D, col 7 ln 25-60, and col 8 ln 9-10).

Additionally, regarding claims 7-12, the software recited by Mundt (col 8 ln 9-10) contains a means for carrying out the actions mentioned above, including the computer readable program code, because computer software consists of program code.

With respect to claim 8, Mundt discloses the computer program product as recited in claim 7, further comprising:

computer readable program code configured to present said level indicating parameter value and a predetermined end value of said scale (col 7 ln 25-60, Fig. 5A-D, and col 7 ln 1-25).

With respect to claim 9, Mundt discloses the computer program product as recited in claim 7, further comprising:

computer readable program code configured to calculate remaining battery time based on the detected present power consumption (col 6 ln 28-55 and Fig. 4).

With respect to claim 10, Mundt discloses the computer program product as recited in claim 9, further comprising:

computer readable program code configured to present an indication of the calculated remaining battery time based on a current mode of the device (col 6 ln 28-55, Fig. 4, and col 8 ln 9-20).

With respect to claim 11, Mundt discloses the computer program product as recited in claim 7, wherein said computer readable program code configured to present comprises computer readable program code configured to present said indication of said consumption level in said scale on a display (col 8 ln 9-20, Fig. 4 and 5A-D, and I in Fig. 1).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mundt (US 5,903,254).

With respect to claims 6 and 12, Mundt discloses the battery-driven device and computer program product as recited in claims 1 and 7, where said device is a battery powered notebook computer with a modem (col 6 ln 58-67).

Although Mundt does not expressly disclose wherein said device is a radio communication terminal, he does disclose the use of a modem with the notebook computer. At the time of the invention, one skilled in the art knew that a wireless modem could be applied to the device of Mundt, in order to remove the constrictions of wires and to allow a wider area of use for the computer. Furthermore, the applicant recites that radio communication devices include portable laptop computers (pg 5 ln 4-9).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include a wireless modem in the device of Mundt, as was well known in the art, in order to allow a wider area of use for the device.

***Response to Arguments***

5. Applicant's arguments filed March 17, 2006 have been fully considered but they are not persuasive.

With respect to claims 1 and 7, applicant argues that Mundt (US 5,903,254) does not determine the present power consumption or present the power consumption as a consumption level in a predetermined scale. Applicant further notes that the faucet icons of Figs. 5A-5D of Mundt do not vary in response to the particular application being run on the notebook computer, but instead are merely operation mode dependent.

Examiner respectfully disagrees for the following reasons: Mundt does determine the present power consumption and presents it as a consumption level in a predetermined scale as noted above in the rejections of claims 1 and 7. It is reasonable to interpret the faucet in Figs. 5A-D as the detection and determination of the present power consumption because it is still detecting/determining the power consumption, even if that consumption level is initially activated by the user (col 8 ln 13-23 and col 6 ln 56-61). Furthermore, the predetermined scale can be seen in the four different figures (5A-D) wherein each one is showing the power consumption at a different rate (i.e. each different flow rate represents a different level on the predetermined scale and the computer operating at a different power consumption). In other words, the operation mode does control the flow rate being displayed and the devices/applications run on the computer (col 6 ln 60 to col 7 ln 6), and that meets the claim language presented by the applicant.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Piggush whose telephone number is 571-272-5978. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Karl Easthom can be reached on 571-272-1989. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
KARL EASTHOM  
SUPERVISORY PATENT EXAMINER

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